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July 8, 2005

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Verizon's Petition for a Declaratory Ruling or, Alternatively, Interim Waiver and Verizon's Conditional Petition for Forbearance under 47 U.S.C. § 160(e) with Regard to Broadband Services Provided via Fiber to the Premises, WC Docket No. 04-242

On July 7, 2005, Julie Chen Clocker and Dee May of Verizon met with Mr. Rudy Brioché of Commissioner Adelstein's office regarding the above proceeding. The topics discussed are outlined in the attached document.

Please let me know if you have any additional questions.

Sincerely,

A handwritten signature in black ink that reads "Dee May". The signature is written in a cursive, flowing style.

Attachment

cc: Julie Veach
Terri Natoli
Rudy Brioché

Fiber to the premises

The FCC should grant interim relief to treat broadband services over FTTP in parity with cable modem service

Earlier this year, Verizon announced a large-scale rollout of fiber to the premises (FTTP) that would pass about 1 million homes in parts of nine states by the end of the year. On June 28, 2004, Verizon filed two petitions with the Federal Communications Commission (FCC) seeking confirmation that Verizon's FTTP broadband service offered in conjunction with cable service is subject to the same regulatory treatment as the broadband internet connection offered by other cable companies, pending the completion of a series of ongoing proceedings to determine the appropriate regulatory treatment for broadband services generally.

Verizon urgently needs clarification from the FCC because it has already begun its deployment of next-generation FTTP infrastructure and plans to begin offering an attractive combination of voice, video, and data services to customers using this new infrastructure soon. Verizon plans to offer broadband Internet access service over FTTP in less than two months.

Over FTTP, Verizon will provide voice service under existing state tariffs and cable TV service under cable franchises. But the FCC needs to clarify that Verizon's FTTP broadband service — an emerging technology offered in conjunction with cable service — is subject to the same regulatory treatment as other cable companies. Verizon is seeking this clarification via several alternatives:

- **Declaratory relief** — In the first petition, Verizon seeks a declaratory ruling confirming that, until the Commission completes its ongoing review of what regulations, if any, should apply to broadband services, Verizon may offer its broadband services that are provided via FTTP in the same manner that cable companies offer broadband services via cable modem.
- **Waiver** — If for any reason the FCC concludes that it cannot provide such a declaration, then Verizon is requesting the FCC to waive its rules for FTTP broadband to the same extent that it has granted a waiver for cable modem service.
- **Forbearance** — In the second petition, Verizon is asking the FCC to grant such forbearance as may be necessary to provide interim relief until an appropriate regulatory framework for broadband has been established, if the FCC should determine that it is unable to grant the declaration or waiver described above.

Although the FCC has not yet specifically addressed the appropriate regulatory treatment for broadband services offered via FTTP in particular, the Commission *has* addressed more generally the appropriate regulatory treatment for broadband services offered by a company that also offers video and voice services over its network.

In its *Cable Modem Declaratory Ruling*, the Commission granted both declaratory relief and a waiver to permit cable modem service to be provided without being subject to key aspects of the FCC's common-carrier rules that, if applied, would require those services to be offered separately under tariff and at cost-based rates, terms, and conditions. As a result, cable companies may provide those services on individually negotiated terms, without tariffs and without regulatory cost support. While the Ninth Circuit overturned other conclusions of the *Cable Modem Declaratory Ruling*, the court left these aspects of the order intact and in effect.

Verizon plans to offer its FTTP broadband services under circumstances that parallel those in the *Cable Modem Declaratory Ruling*. Specifically, like the companies there, Verizon intends to provide video, high-speed Internet access, and voice services over its FTTP network, and to obtain cable franchises for those multichannel video offerings that, arguably, are subject to the franchise obligation under Title VI of the Communications Act. Under these circumstances, the FCC should find that Verizon's FTTP broadband services are subject to the same regulatory treatment as other cable companies.

